

The Honorable Kymberly K. Evanson

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. TOMMY PHAM,  
2. DONFEUY SAEPHAN,  
3. KHAMPHETH KEODARA,  
4. SANG TRAN, and  
5. THEODORE NATION,

Defendants.

NO. CR25-002 KKE

DISCOVERY PROTECTIVE ORDER

This matter, having come to the Court's attention on the parties' joint motion for entry of a discovery protective order (Dkt. No. 60), and the Court, having considered the motion, and being fully advised in this matter, pursuant to Fed. R. Crim P. 16(d)(1), hereby GRANTS the motion. The Court ENTERS the following protective order:

1. **Protected Material.** For purposes of this Order, "Protected Materials" shall include: (1) Grand Jury testimony; (2) witness statements; (3) tax information; (4) financial information, (5) subscriber information (including phone and utility subscriber information for third parties), (6) toll records, (7) all wiretap proceedings, and (8) other personal

1 identifying information (“PII”)<sup>1</sup> obtained during the investigation, either via Grand Jury  
 2 subpoena and/or during the execution of search warrants, including but not limited to  
 3 personal information about third parties (such as photographs, including sexually suggestive  
 4 photographs of family members, defendants, and/or witnesses) and other sensitive  
 5 information obtained from during this investigation

6       **2. Designation of Protected Material.** The Protected Material shall be  
 7 designated by the government, on the material itself, in a placeholder if the electronic file  
 8 cannot be marked (as is the case with certain native files), or on a physical label affixed to  
 9 a disk or other media, using the following designation “PROTECTED MATERIAL”. The  
 10 failure to designate any materials as Protected shall not constitute a waiver of a party’s  
 11 assertion that the materials are covered by this Protective Order. If material is later found to  
 12 be covered by this Protective Order, the government will re-produce a properly designated  
 13 copy of the material.

14       **3. Production of Protected Material to the Defense.** The United States will  
 15 make available copies of the Protected Materials, including those filed under seal directly  
 16 to defense counsel to comply with the government’s discovery obligations, and/or to a  
 17 Coordinating Discovery Attorney, should one be appointed. Possession of copies of  
 18 Protected Material is limited to attorneys of record, their office staff, investigators,  
 19 paralegals, assistants, and law clerks, as well as necessary third-party vendors, consultants,  
 20 and/or experts (hereinafter collectively referred to as “members of the defense team”). At  
 21 all times, third-parties shall be subject to the terms of this order. Further, the attorneys of  
 22 record are required to make available, prior to disseminating any copies of the Protected or  
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 25 <sup>1</sup> “PII” includes, but is not necessarily limited to, the information identified in Fed. R. Crim. P. 49.1(a) and includes  
 26 full names, dates of birth, Social Security numbers (or other identification information), financial account information  
 27 (including account numbers), tax information, driver’s license numbers, addresses, telephone numbers, locations of  
 residences or employment, medical records, school records, juvenile criminal records, and other confidential  
 information. The government has endeavored to redact PII as appropriate, but the parties acknowledge and agree that  
 this will not always be possible, and that in some instances un-redacted PII may be necessary to the defense.

1 Sensitive Materials to members of the defense team, a copy of this Protective Order to  
2 members of the defense team.

3       4.     **Restrictions on use with Artificial Intelligence Tools.** The Protected  
4 Material shall not be loaded into an artificial intelligence (AI) tool or model, generative or  
5 not, where rights to the data are retained by any party that has not explicitly agreed to be  
6 covered by the protective order.

7       5.     **Review of Protected Material by Defendant.** The attorneys of record and  
8 members of the defense team may share and review the Protected Material with Defendant.  
9 If Defendant is in custody at the Federal Detention Center (FDC), he will be permitted to  
10 review the Protected Material, consistent with the regulations established by the BOP, with  
11 or without counsel, in a controlled environment at the Federal Detention Center (FDC), but  
12 will be prohibited from printing out, copying, disseminating, or otherwise retaining the  
13 discovery. If Defendant is on pretrial release, he will be permitted to review the Protected  
14 Material at the offices of his/her counsel, but will be prohibited from printing out, copying,  
15 or disseminating the discovery.

16       6.     **Limits on Dissemination of Protected Materials.** The attorneys of record  
17 and members of the defense team acknowledge that providing copies of the Protected  
18 Material to Defendant and other persons is prohibited and agree not to duplicate or provide  
19 copies of the Protected Material to Defendant and other persons. Members of the defense  
20 team, defendants, and any others to whom disclosure of the content of Protected Material  
21 may be necessary to assist with the preparation of the defense, shall not disclose the  
22 Protected Material or its contents, other than as necessary for the preparation of defenses at  
23 trial and in subsequent legal proceedings, if necessary. This order does not limit employees  
24 of the United States Attorney's Office for the Western District of Washington from  
25 disclosing the Protected Material to members of the United States Attorney's Office, law  
26 enforcement agencies, witnesses, and the Court and defense as necessary to comply with  
27 the government's discovery obligations.

1           7.     **Future Production of Additional Protected Materials.** Additional types of  
2 discovery items may be deemed by the parties to constitute Protected Material upon  
3 agreement, or (if no agreement can be reached) by further order of the Court.

4           8.     **No Waiver.** Nothing in this order should be construed as imposing any  
5 substantive discovery obligations on the government that are different from those imposed  
6 by case law and Rule 16 of the Federal Rules of Criminal Procedure.

7           9.     **Use of Protected Material in Court.** Any Protected or Sensitive Material  
8 that is filed with the Court in connection with pre-trial motions, trial, or other matter before  
9 this Court, shall be filed under seal and shall remain sealed until otherwise ordered by this  
10 Court. This does not entitle either party to seal their filings as a matter of course. The parties  
11 are required to comply in all respects with the relevant local and federal rules of criminal  
12 procedure pertaining to the sealing of court documents. If the Protected Material to be filed  
13 with the Court was designated as Protected solely because it contains personal-identifying  
14 information, it may be filed publicly, provided it has been redacted in compliance with  
15 Federal Rule of Criminal Procedure 49.1 and Local Criminal Rule 49.1.

16          10.    **Non-Termination.** The provisions of this Order shall not terminate at the  
17 conclusion of this prosecution. Furthermore, after any judgment or disposition has become  
18 final and there are no pending proceedings, challenges, appeals, or habeas motions in the  
19 case, defense counsel shall destroy the Protected Materials. If defense counsel finds that  
20 retention of the Protected Materials in their possession is necessary for authorized reasons,  
21 such as professional or ethical obligations, defense counsel shall retain the Protected  
22 Materials in their case file subject to the restrictions of this Order.

23          11.    **Violation of Order.** Any person who willfully violates this order may be held  
24 in contempt of court and may be subject to monetary or other sanctions as deemed  
25 appropriate by this Court.

26          12.    **Modification of Order.** Nothing in this Stipulation shall prevent any party  
27 from seeking modification of this Protective Order or from objecting to discovery that it

1 believes to be otherwise improper. The parties agree that in the event that compliance with  
2 this Order makes it difficult for defense counsel to adhere to their Sixth Amendment  
3 obligations, or otherwise imposes an unworkable burden on counsel, defense counsel shall  
4 bring any concerns about the terms of the Order to the attention of the government. The  
5 parties shall then meet and confer with the intention of finding a mutually acceptable  
6 solution. In the event that the parties cannot reach such a solution, defense counsel shall  
7 have the right to bring any concerns about the scope or terms of the Order to the attention  
8 of the Court by way of a motion.

9       **13. No Ruling on Discoverability or Admissibility.** This Protective Order does  
10 not constitute a ruling on the question of whether any particular material is properly  
11 discoverable or admissible and does not constitute any ruling on any potential objection to  
12 the discoverability of any material.

13       **14. No Ruling on Timing of Production.** This Protective Order does not require  
14 the Government to provide particular discovery at a time or in a fashion inconsistent with  
15 applicable law.

16       **15. Addition of Defendants after Entry of Order.** This Protective Order will  
17 cover additional Defendants in this case so long as they agree to be bound by the terms of  
18 this Protective Order and so indicate that consent by the execution of a supplemental  
19 stipulation, which shall be filed as an addendum or supplement to this Protective Order.

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1 The Clerk of the Court is directed to provide a filed copy of this Protective Order to  
2 all counsel of record.

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4 DATED this 24th day of February, 2025.  
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8 HON. KYMBERLY K. EVANSON  
9 UNITED STATES DISTRICT COURT JUDGE

10 Presented by:

11 /s/ Casey S. Conzatti

12 Casey S. Conzatti

13 Brian J. Wynne

14 Assistant United States Attorney  
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